

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06CV217-1-MU

RANDALL SALTERS,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
NORTH CAROLINA STATE)	
BAR, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

THIS MATTER comes before the Court for an initial review of Plaintiff's Complaint pursuant to 42 U.S.C. § 1983 (Document # 1), filed June 21, 2006.

In his Complaint Plaintiff alleges that Defendant John Barrett, his criminal attorney, violated his constitutional rights while representing him in his criminal proceeding. Plaintiff also alleges that Douglas Brocker, a staff attorney for the North Carolina State Bar, and the North Carolina State Bar lied to him about investigating the complaint he filed against Defendant Barrett with the North Carolina State Bar. Plaintiff seeks to have this Court disbar Defendant Barrett and to grant him punitive damages against Defendant Brocker and the North Carolina State Bar in the amount of \$ 950,000.00.

In order to state a claim under 42 U.S.C. § 1983, a Plaintiff must establish that one of his constitutional rights (or federal statutory rights) was violated by a person acting under the color of state law. 42 U.S.C. § 1983. Neither public defenders nor private criminal attorneys are "state actors." See In Polk County v. Dodson, 454 U.S. 312 (1981)(public defender); Deas v. Potts, 547

F.2d 800 (4th Cir. 1976)(private criminal defense attorney). Accordingly, Plaintiff fails to state a claim under 42 U.S.C. §1983 against Defendant Barrett.

No constitutional or federal right exists to have the North Carolina State Bar or any of its attorneys investigate a grievance against an attorney. Consequently, Plaintiff also fails to state a claim against Defendant Brocker and the North Carolina State Bar.

IT IS THEREFORE ORDERED THAT Plaintiff's Complaint is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim upon which relief may be granted.

Signed: August 1, 2006

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

